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C O N F I D E N T I A L SECTION 01 OF 03 RANGOON 001378

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SUBJECT: SPECIAL RAPPORTEUR PINHEIRO BRIEFS DIPLOMATS ON
VISIT

REF: RANGOON 1354

Classified By: COM CARMEN M. MARTINEZ FOR REASON 1.5(D).

1. (C) Summary: At an October 28 briefing, UN Special Rapporteur Pinheiro told diplomats in Rangoon that during his 12-day visit to Burma he strongly encouraged the SPDC to address continuing human rights abuses. He also encouraged the international community to implement programs that will promote human rights in Burma (citing Australia's human rights training program as an example), or conditions will get much worse. Democratic reform, in his view, is not in the offing and human rights problems in Burma are too pressing to wait for this change. Pinheiro said Secretary One Khin Nyunt was "not negative" in response to his call for action on abuses and was proud of the SPDC's successes. Khin Nyunt cited actions to combat narcotics, trafficking in persons, and HIV/AIDS as evidence of progress. Pinheiro said the SPDC has been responsive to ICRC recommendations for improvements in prisons and conditions for political prisoners, in particular, have improved as a result. Pinheiro proposed to the SPDC the expansion of ICRC monitoring to areas of continuing conflict. He also encouraged the SPDC to endorse one of three options for an international assessment of the alleged systematic rapes by the military in Shan State. While Pinheiro's briefing was characteristically upbeat - designed to keep the door open with the regime - he privately expressed his frustration to COM Martinez, noting that he does not know how much longer he will continue as SR if the regime does not address continuing serious abuses. End Summary.

General Assessment

2. (C) On October 28, UN Special Rapporteur on Human Rights in Burma Paulo Sergio Pinheiro (SR) briefed the diplomatic corps here at the completion of his 12-day visit, the fourth visit since he was appointed. The SR said that the SPDC had cooperated fully in his requests for meetings and assisted him in all logistical aspects of the visit. He had met with Secretary One Khin Nyunt, the Foreign Minister, Deputy

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Foreign Minister, the Ministry of Home Affairs and other SPDC officials in Rangoon and at the regional level when he traveled to Mon State. The SR said he carried the same message to all these officials at each meeting: the SPDC needs to do more now to address the serious human rights abuses in the country. He characterized the officials' responses to this appeal as "not negative." He said that while they did not make any specific commitments in response, they did not harshly rebut his statement that problems exist; he took this as a positive indication. Secretary One described to the SR how the SPDC had taken many positive steps, citing in particular, progress in combating narcotics, trafficking in persons, and HIV/AIDS. The SR was surprised by Secretary One's openness compared with previous meetings in discussing political prisoners. Rather than denying the existence of political prisoners as he had done in the past, Secretary One said the GOB has released over 400 political

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prisoners in "direct response" to the SR's requests, and readily discussed with the SR remaining categories and subcategories of political prisoners.

3. (C) SR Pinheiro appealed to the international community to "cooperate now" with the SPDC on ways to improve human rights in the country. He said there is no reason to hope for democratic change anytime soon - "democracy (at least the Western version) is far away in the minds of these gentlemen" - and conditions demand action now on programs that will improve human rights. Pinheiro emphasized that "if there is not greater cooperation now things will get much worse." He cited the Australian human rights workshops for SPDC officials as an example of an activity that has been criticized but which he endorses because it sensitizes trainees to international human rights standards. He strongly encouraged the international community to "engage" by identifying community activities in cooperation with the NLD that will secure better human rights.

ICRC Gets High Marks

14. (C) SR Pinheiro said his visits to prisons indicate that the International Committee for the Red Cross is continuing to make good progress in improving prison conditions. He said the ICRC has made over 200 visits to 80 facilities in the last two years, and prisoners confirm to him that, as a result, conditions have greatly improved. Pinheiro said that he has heard no reports of abuses of political prisoners in the last two years. He noted that while prison conditions for the general prison population are now generally worse than that of political prisoners, the conditions are not that bad compared to some others in the world (e.g. he cited the deplorable conditions in some lock-ups in Sao Paulo.)

15. (C) Hoping to build on the ICRC's successes in prisons, Pinheiro proposed to the SPDC (after previously clearing with ICRC) that ICRC be allowed to establish a presence in all areas of armed conflict to report on abuses in confidentiality to the SPDC. He did not yet have a response

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to the proposal.

Follow-up on Shan Rape Allegations

16. (C) Pinheiro said the SPDC had thoroughly briefed him their latest investigation into the Army's alleged use of systematic rape in Shan State. He said that while the investigation appeared to be professional and the SPDC had apparently put a lot of energy into it, he told them that no one would believe it because it was done by the military. Warning SPDC officials that if they persisted in just denying the allegations they would face serious consequences from the international community, he offered three options for an independent assessment (as reported in reftel). The options were:

-- a national Ombudsman or Commission (composed of opposition and government members) created with the assistance of the UNHRC (which ASSK agreed to participate in although she was skeptical if it could work, he said);

-- a team of experts led by the SR to investigate the charges; and

-- a Commission of Inquiry with a mandate from the UN Secretary General or UNHRC.

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17. (C) Pinheiro said he believes the second option would be the most effective and he had told the SPDC this. He noted that a prerequisite for any of the options would be sufficient funding from the international community (Note: COM Martinez told the group the U.S. would support the idea but pressed others, not just the EU but ASEAN and other neighboring countries, to also provide resources so that it did not appear to be a U.S. controlled activity. End Note.) Pinheiro also said that any inquiry should not be limited to just the Shan State rape allegations but should address abuses in general in areas of conflict; "black areas." He emphasized that abuses by armed insurgent groups must also be addressed in the inquiry, as this is a problem that is rarely mentioned.

18. (C) Pinheiro said he will not mention these options in the press briefing on his trip (wanting to give the SPDC flexibility in its response) but he told the SPDC that if they do not express a preference to him by the time of his report on November 6, he is prepared to initiate option two (in which he would personally participate). He said the regime appears seriously concerned about international criticism regarding the allegations and he thinks the SPDC will allow some independent assessment, although they have previously stated this was out of the question.

Comment

19. (C) While Pinheiro's briefing to the diplomatic corps was characteristically upbeat (he wants to keep the door open with the regime in order to continue to push for reforms), he has privately expressed his frustration to COM Martinez regarding the regime's lack of action to curb continuing abuses. He told the COM early in the visit that he came to Burma with a view to keeping communications open with the regime and giving them the benefit of the doubt whenever possible. He said his patience is running out as he sees very little progress on curbing serious human rights abuses, especially in areas of conflict. He said he does not believe, on balance, that abuses of religious freedom or prisoners for instance make Burma the "world champions" compared to abuses in other countries, but he does find the pervasive SPDC control over every citizen's life oppressive and the abuses against citizens deemed enemies of the state unacceptable. It is these abuses, unfortunately, that the

SPDC seems least willing to address. Pinheiro told the COM that he may not continue as SR if he does not see some change by the SPDC in the near future. He quipped that they would be sorry to lose him, someone who has been willing to try to work with them, if he is replaced by an SR from a country with a less flexible Burma policy than Brazil, i.e., the Scandinavians or EU.
Martinez